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Via Facsimile Transmission Only (914) 390-4278

Hon. Cathy Seibel, U.S.D.J.

United States District Court - SDNY

300 Quarropas Street

White Plains, NY 10601

Re: Khan Kudo v. Panda Restaurant and Panda Express Inc. 09 cv 0712 (CS)
Docket No. 09 cv 0712 (CS)

Dear Judge Seibel:

We represent the Plaintiff and the Opt-in Plaintiffs in the above-referenced collective action under the Fair Labor Standards Act ("FLSA"). We respectfully submit this correspondence to the Court in reply to Defendants' letter in opposition dated January 12, 2012, which has been directed to the undersigned for response.

It is respectfully submitted that Defendants cannot dispute that the proposed reminder notice does not prejudice the Defendants whatsoever. The reminder only ensures that potential class members have received and/or received notice of their legal rights, which is exactly what the due process clause contemplates.

Further, Defendants' feigned surprise at the request is disingenuous at best because the fact that the phone numbers/emails were requested and supplied presupposes that same were intended to be used if necessary. That Defendants supplied this information in the first instance shows they were aware at all times that same was subject to use in this action for the very reasons now requested.

Defendants' alleged delay argument is nothing more than a red herring. Defendants only provided the Court Ordered employee information in November 2011, five months after the initial order. Further, there is no requirement that a reminder notice be requested at the outset,

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before there is a necessity for same. Defendants' suggestion that there was an immediate awareness that 55 class members were undeliverable overlooks the rolling nature of the process as well as the follow up undertaken by the administrator in attempting to locate same. Moreover, the concern expressed by certain class members over losing their jobs is something that occurred and developed over a period of time, rather than simply manifesting on November 20, 2011 as suggested by the Defendants.

Thank you for Your Honor's consideration of our submission.

Respectfully submitted,



Mary E. Brady Marzolla

MEBM/vad

cc: Dominick C. Capozzola, Esq. (by email only)
Sharon Margello, Esq. (by email only)
Sara Wyn Kane, Esq. (by email only)

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FACSIMILE TRANSMITTAL SHEET

DATE: January 13, 2012

TO: Hon. Cathy Seibel, U.S.D.J. FAX #: 914-390-4278

FROM: Mary Brady Marzolla

RE: Khan Kudo et al v. Panda Restaurant and Panda Express Inc.
Index No. 09 cv 0712(CS)

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